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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,311	03/02/2005	Melchor Daumal Castellon	001058-00023	3822

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EXAMINER

KELLY, CATHERINE A

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,311

Applicant(s)

DAUMAL CASTELLON, MELCHOR

Examiner

CATHERINE A. KELLY

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Specification

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: "lies are due" on page 2 lines 1-3 of the marked up specification. It is very clear that applicant attempted to clean up the specification in view of Examiner's previous action and Examiner appreciates the effort. Most of the remaining issues, like the one above, appear to be grammatical errors as a result of the revisions. Some language, such as lines 5-9 on page 14 of the marked up specification, have unclear language that was not fixed in the initial attempt. Again, applicant is urged to thoroughly review the specification for any remaining language or grammatical errors.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Looking at claim 1, all Examiner can determine is that applicant is giving the parameters that can determine the window lift assembly design. Applicant is claiming the assembly – the parameters the assembly is based on

do not define the assembly-- values or structure must be given. While applicant has given a value range in the amended claims for the third distance, the rest of the parameters remain just that as they are still undefined by structure or values.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

As best understood, Claims 1-3, 6, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PG Pub 2002/0095870 in view of DE10057352. The '870 reference shows the mechanism of claims 1-3 in figure 1 with track 11, the track slider assembly 43, and driving means 15 and in figure 2 where the disassembled door is shown but not numbered and the door or pane frame 53 contains pane 41. However, the '870 reference does not teach the guide and slider of the frame of the present invention. This is shown in the '352 reference in figure 1 reference numeral 7. It would

have been obvious to one of ordinary skill in the art at the time. One of ordinary skill would be motivated to combine because a dual slider assembly was clearly known in the art at the time of invention and a second slider would provide additional control over and stability to the assembly which is always desirable in the art. The '870 reference is silent in regards to the various values and equations of claims 1-3, however, these values and equations are obvious design choices that would be obtained with only routine experimentation by one of ordinary skill in the art at the time of invention and as such the points of contact as claimed would be determined based on the design choice and as such would be wherever would be appropriate. One of ordinary skill in the art would be motivated to make such design choices based on a variety of parameters such as the size of the vehicle in which the assembly is to be placed or the need for minimal cost or maximum speed in manufacturing.

Regarding claim 6, the fitting of the assembly in the frame is taught in the '870 reference in paragraph [0052] and shown in figure 3 and the first guide fitting in the frame shown in the '352 reference in figure 1 where the slider is reference numeral 7 and frame 8. The fit shown in the '870 reference is tight enough to prevent rotation in combination with the slider of the '352 reference. As in the above rejection of claim 1, the values and equations are obvious design choices that would be obtained with only routine experimentation by one of ordinary skill in the art at the time of invention and as such the points of contact as claimed would be determined based on the design choice and as such would be wherever would be appropriate.

Regarding claim 8, the window lift assembly is shown in the '870 reference in figure 1 with track 11 and the track slider assembly 43 and in figure 2 where the disassembled door is shown but not numbered and the door or pane frame 53 contains pane 41. However, the '870 reference does not teach the guide and slider of the frame of the present invention. This is shown in the '352 reference in figure 1 reference numeral 7.

Regarding claim 12, the fitting of the assembly in the frame is taught in the '870 reference in paragraph [0052] and shown in figure 3 and the first guide fitting in the frame shown in the '352 reference in figure 1 where the slider is reference numeral 7 and frame 8. The fit shown in the '870 reference is tight enough to prevent rotation in combination with the slider of the '352 reference.

As best understood, Claims 5, 7, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0095870 and DE 10057352 as applied to claims 1 and 8 above, and further in view of US patent 3591983. The slider of the '352 reference does not have either the rotation of claims 5 and 11 or the single point of claims 7 and 13. However, both of these limitations are shown in the '983 reference where figure 2 shows follower 46 which is both attached at a single point and rotatable. As in the above rejection of claim 1, the values and equations are obvious design choices that would be obtained with only routine experimentation by one of ordinary skill in the art at the time of invention and as such the points of contact as claimed would be determined based on the design choice and as such would be wherever would be appropriate. It would have been obvious to combine to one of ordinary skill in the art at the time of

invention. A motivation for such combination is given in the '983 reference in column 1 lines 22-26 which teaches the advantages of a minimal number of fastening points while still allowing for rotation to permit adjustment or maintenance of the apparatus.

Response to Arguments

Applicant's arguments filed 3/2/2009 have been fully considered but they are not persuasive. In regards to applicant's arguments directed to the dual sliders, Examiner notes that the '870 reference teaches the track guide and slider assembly and the '352 reference the frame guide and slider assembly. Thus, in combination, the references teach the dual guide and slider assembly.

In regards to applicant's arguments directed to the distances, as noted in the above rejections, the distances would be a design choice via routine experimentation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE A. KELLY whose telephone number is (571)270-3660. The examiner can normally be reached on Monday through Friday 9am - 5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. K./
Examiner, Art Unit 3634

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

cak

